

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

RSL FUNDING, LLC, ET AL. § PLAINTIFFS
v. § CAUSE NO. 1:10CV145 LG-RHW
BENNY RAY SAUCIER, ET AL. § DEFENDANTS

ORDER ADOPTING PROPOSED FINDINGS
OF FACT AND RECOMMENDATION
AND DISMISSING CASE WITHOUT PREJUDICE

This cause comes before the Court on the Proposed Findings of Fact and Recommendation [4] of United States Magistrate Judge Robert H. Walker entered in this cause on September 23, 2010. Magistrate Judge Walker reviewed the procedural history of this case, noting that after the clerk issued summons as to the Defendants on March 31, 2010, there was no further activity in the case. Almost six months later, Magistrate Judge Walker entered a show cause order, requiring the Plaintiffs to show cause for their failure to serve Defendants with process. The Plaintiffs did not respond to the show cause order. Magistrate Judge Walker then recommended that the Court dismiss the case without prejudice for Plaintiffs' failure to serve process as required by FED. R. CIV. P. 4(m). Plaintiffs did not object to the recommendation.

No party has filed an objection to the findings or recommendations of the Magistrate Judge. Therefore, the Court need only review the Proposed Findings of Fact and Recommendation and determine whether it is either clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). After having reviewed the Proposed Findings of Fact and Recommendations and the record in this case, the Court finds the Magistrate Judge's conclusions neither clearly

erroneous nor contrary to law. Rule 4(m) permits a district court to dismiss a case without prejudice if the plaintiff fails to serve the defendant within 120 days of filing the complaint. *Millan v. USAA Gen. Indem. Co.*, 546 F.3d 321, 325 (5th Cir. 2008). The Plaintiffs' failure to take any action in furtherance of their case warrants dismissal.

IT IS THEREFORE ORDERED AND ADJUDGED that the Proposed Findings of Fact and Recommendation [4] of United States Magistrate Judge Robert H. Walker entered in this cause on September 23, 2010, should be, and the same hereby is, adopted as the finding of this Court.

IT IS FURTHER ORDERED AND ADJUDGED that the Plaintiff's claims are **DISMISSED** without prejudice pursuant to FED. R. CIV. P. 4(m).

SO ORDERED AND ADJUDGED this the 1st day of November, 2010.

s/ *Louis Guirola, Jr.*
LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE